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SENATE BILL 352

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

ROMAN M. MAES III

AN ACT

RELATING TO TAXATION; AUTHORIZING MUNICIPAL AND COUNTY LOCAL  
OPTION CAPITAL IMPROVEMENTS GROSS RECEIPTS TAXES FOR USE  
SOLELY FOR PAYMENT OF PRINCIPAL AND INTEREST ON BONDS ISSUED  
FOR LOCAL CAPITAL IMPROVEMENT PURPOSES; REQUIRING VOTER  
APPROVAL OF THE TAXES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Municipal Local Option  
Gross Receipts Taxes Act is enacted to read:

" NEW MATERIAL MUNICIPAL CAPITAL IMPROVEMENTS GROSS  
RECEIPTS TAX-- AUTHORITY TO IMPOSE RATE-- USE OF FUNDS--  
ELECTION. --

A. The majority of the members of the governing  
body of a municipality may enact an ordinance imposing an  
excise tax at a rate not to exceed one-fourth of one percent

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1 of the gross receipts of any person engaging in business in  
2 the municipality for the privilege of engaging in business.  
3 The tax may be imposed in any number of increments of  
4 one-sixteenth of one percent not to exceed an aggregate rate  
5 of one-fourth of one percent.

6 B. The tax imposed pursuant to Subsection A of  
7 this section may be referred to as the "municipal capital  
8 improvements gross receipts tax".

9 C. The governing body, at the time of enacting an  
10 ordinance imposing a rate of tax authorized in Subsection A of  
11 this section, shall dedicate the revenue only for the payment  
12 of principal of and interest on revenue bonds issued for  
13 municipal capital improvements. The tax shall be imposed for  
14 the term of the bonds, and when the outstanding bonds have  
15 been paid in full the ordinance imposing the tax shall be  
16 repealed. Municipal capital improvements gross receipts tax  
17 revenues collected after the bonds are paid in full and prior  
18 to the cessation of the tax shall be used by the municipality  
19 for capital improvements prescribed in the ordinance or  
20 resolution authorizing the bonds. The governing body may  
21 enact subsequent ordinances imposing the tax, subject to the  
22 requirements of this section.

23 D. An ordinance imposing a municipal capital  
24 improvements gross receipts tax shall not go into effect until  
25 after an election is held and a majority of the voters of the

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1 municipality voting in the election votes in favor of imposing  
2 the tax. The governing body shall adopt a resolution calling  
3 for an election within seventy-five days of the date the  
4 ordinance is adopted on the question of imposing the tax. The  
5 question shall be submitted to the voters of the municipality  
6 as a separate question at a regular municipal election or at a  
7 special election called for that purpose by the governing  
8 body. A special municipal election shall be called, conducted  
9 and canvassed as provided in the Municipal Election Code. If  
10 a majority of the voters voting on the question approves the  
11 ordinance imposing the municipal capital improvements gross  
12 receipts tax, then the ordinance shall become effective in  
13 accordance with the provisions of the Municipal Local Option  
14 Gross Receipts Taxes Act. If the question of imposing the  
15 municipal capital improvements gross receipts tax fails, the  
16 governing body shall not again propose the imposition of the  
17 tax for a period of one year from the date of the election.

18 E. A law that imposes or authorizes the imposition  
19 of a municipal capital improvements gross receipts tax, or a  
20 law supplemental to or otherwise pertaining to the tax, shall  
21 not be repealed or amended or otherwise directly or indirectly  
22 modified in such a manner as to impair adversely any  
23 outstanding revenue bonds that may be secured by a pledge of  
24 the municipal capital improvements gross receipts tax unless  
25 the outstanding revenue bonds have been discharged in full or

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1 provision has been fully made for their discharge. "

2 Section 2. A new section of the County Local Option  
3 Gross Receipts Taxes Act is enacted to read:

4 "[NEW MATERIAL] COUNTY CAPITAL IMPROVEMENTS GROSS  
5 RECEIPTS TAX-- AUTHORITY TO IMPOSE RATE-- USE OF FUNDS--  
6 ELECTION. --

7 A. The majority of the members of the governing  
8 body of a county may enact an ordinance imposing an excise tax  
9 at a rate not to exceed one-fourth of one percent of the gross  
10 receipts of any person engaging in business in the county area  
11 for the privilege of engaging in business. The tax may be  
12 imposed in any number of increments of one-sixteenth of one  
13 percent not to exceed an aggregate rate of one-fourth of one  
14 percent.

15 B. The tax imposed pursuant to Subsection A of this  
16 section may be referred to as the "county capital improvements  
17 gross receipts tax".

18 C. The governing body, at the time of enacting an  
19 ordinance imposing a rate of tax authorized in Subsection A of  
20 this section, shall dedicate the revenue only for the payment  
21 of principal of and interest on revenue bonds issued for  
22 county capital improvements. The tax shall be imposed for the  
23 term of the bonds, and when the outstanding bonds have been  
24 paid in full the ordinance imposing the tax shall be repealed.  
25 County capital improvements gross receipts tax revenues

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1 collected after the bonds are paid in full and prior to the  
2 cessation of the tax shall be used by the county for capital  
3 improvements prescribed in the ordinance or resolution  
4 authorizing the bonds. The governing body may enact  
5 subsequent ordinances imposing the tax, subject to the  
6 requirements of this section.

7 D. An ordinance imposing a county capital  
8 improvements gross receipts tax shall not go into effect until  
9 after an election is held and a majority of the voters of the  
10 county area voting in the election votes in favor of imposing  
11 the tax. The governing body shall adopt a resolution calling  
12 for an election within seventy-five days of the date the  
13 ordinance is adopted on the question of imposing the tax. The  
14 question of whether to impose the tax shall be submitted to  
15 the voters of the county area at a general election or at a  
16 special election called by the governing body for that  
17 purpose. A special election shall be called, conducted and  
18 canvassed in substantially the same manner as provided by law  
19 for general elections. If a majority of the voters voting on  
20 the question approves the ordinance imposing the county  
21 capital improvements gross receipts tax, then the ordinance  
22 shall become effective in accordance with the provisions of  
23 the County Local Option Gross Receipts Taxes Act. If the  
24 question of imposing the county capital improvements gross  
25 receipts tax fails, the governing body shall not again propose

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1 the imposition of the tax for a period of one year from the  
2 date of the election.

3 E. A law that imposes or authorizes the imposition  
4 of a county capital improvements gross receipts tax, or a law  
5 supplemental to or otherwise pertaining to the tax, shall not  
6 be repealed or amended or otherwise directly or indirectly  
7 modified in such a manner as to impair adversely any  
8 outstanding revenue bonds that may be secured by a pledge of  
9 the county capital improvements gross receipts tax unless the  
10 outstanding revenue bonds have been discharged in full or  
11 provision has been fully made for their discharge. "

12 Section 3. Section 3-31-1 NMSA 1978 (being Laws 1973,  
13 Chapter 395, Section 3, as amended) is amended to read:

14 "3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF  
15 REVENUES--LIMITATION ON TIME OF ISSUANCE.--In addition to any  
16 other law and constitutional home-rule powers authorizing a  
17 municipality to issue revenue bonds, a municipality may issue  
18 revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for  
19 the purposes specified in this section. The term "pledged  
20 revenues", as used in Chapter 3, Article 31 NMSA 1978, means  
21 the revenues, net income or net revenues authorized to be  
22 pledged to the payment of particular revenue bonds as  
23 specifically provided in Subsections A through I of this  
24 section.

25 A. Utility revenue bonds may be issued for

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1 acquiring, extending, enlarging, bettering, repairing or  
2 otherwise improving a municipal utility or for any combination  
3 of the foregoing purposes. The municipality may pledge  
4 irrevocably any or all of the net revenues from the operation  
5 of the municipal utility or of any one or more of any other  
6 such municipal utilities for payment of the interest on and  
7 principal of the revenue bonds. These bonds are sometimes  
8 referred to in Chapter 3, Article 31 NMSA 1978 as "utility  
9 revenue bonds" or "utility bonds".

10 B. Joint utility revenue bonds may be issued for  
11 acquiring, extending, enlarging, bettering, repairing or  
12 otherwise improving joint water facilities, sewer facilities,  
13 gas facilities or electric facilities or for any combination  
14 of the foregoing purposes. The municipality may pledge  
15 irrevocably any or all of the net revenues from the operation  
16 of these municipal utilities for the payment of the interest  
17 on and principal of the bonds. These bonds are sometimes  
18 referred to in Chapter 3, Article 31 NMSA 1978 as "joint  
19 utility revenue bonds" or "joint utility bonds".

20 C. For the purposes of this subsection, "gross  
21 receipts tax revenue bonds" means gross receipts tax revenue  
22 bonds or sales tax revenue bonds. Gross receipts tax revenue  
23 bonds may be issued for any one or more of the following  
24 purposes:

- 25 (1) constructing, purchasing, furnishing,

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1 equipping, rehabilitating, making additions to or making  
2 improvements to one or more public buildings or purchasing or  
3 improving any ground relating thereto, including but not  
4 necessarily limited to acquiring and improving parking lots,  
5 or any combination of the foregoing;

6 (2) acquiring or improving municipal or  
7 public parking lots, structures or facilities or any  
8 combination of the foregoing;

9 (3) purchasing, acquiring or rehabilitating  
10 fire-fighting equipment or any combination of the foregoing;

11 (4) acquiring, extending, enlarging,  
12 bettering, repairing, otherwise improving or maintaining storm  
13 sewers and other drainage improvements, sanitary sewers,  
14 sewage treatment plants or water utilities, including but not  
15 necessarily limited to the acquisition of rights of way and  
16 water and water rights, or any combination of the foregoing;

17 (5) reconstructing, resurfacing, maintaining,  
18 repairing or otherwise improving existing alleys, streets,  
19 roads or bridges or any combination of the foregoing or laying  
20 off, opening, constructing or otherwise acquiring new alleys,  
21 streets, roads or bridges or any combination of the foregoing;  
22 provided that any of the foregoing improvements may include  
23 but are not limited to the acquisition of rights of way;

24 (6) purchasing, acquiring, constructing,  
25 making additions to, enlarging, bettering, extending or

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1 equipping any airport facilities or any combination of the  
2 foregoing, including without limitation the acquisition of  
3 land, easements or rights of way therefor;

4 (7) purchasing or otherwise acquiring or  
5 clearing land or for purchasing, otherwise acquiring and  
6 beautifying land for open space;

7 (8) acquiring, constructing, purchasing,  
8 equipping, furnishing, making additions to, renovating,  
9 rehabilitating, beautifying or otherwise improving public  
10 parks, public recreational buildings or other public  
11 recreational facilities or any combination of the foregoing;  
12 and

13 (9) acquiring, constructing, extending,  
14 enlarging, bettering, repairing, otherwise improving or  
15 maintaining solid waste disposal equipment, equipment for  
16 operation and maintenance of sanitary landfills, sanitary  
17 landfills, solid waste facilities or any combination of the  
18 foregoing.

19 The municipality may pledge irrevocably any or all of the  
20 gross receipts tax revenue received by the municipality  
21 pursuant to Section 7-1-6.4 or 7-1-6.12 [~~or 7-19A-6~~] NMSA 1978  
22 [~~or pursuant to the Municipal Infrastructure Gross Receipts~~  
23 ~~Tax Act~~] to the payment of the interest on and principal of  
24 the gross receipts tax revenue bonds for any of the purposes  
25 authorized in this section or for specific purposes or for any

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1 area of municipal government services, including but not  
2 limited to those specified in Subsection [ B] C of Section  
3 7-19D-9 NMSA 1978, or for public purposes authorized by  
4 municipalities having constitutional home-rule charters. Any  
5 law that imposes or authorizes the imposition of a municipal  
6 gross receipts tax or that affects the municipal gross  
7 receipts tax, or any law supplemental thereto or otherwise  
8 appertaining thereto, shall not be repealed or amended or  
9 otherwise directly or indirectly modified in such a manner as  
10 to impair adversely any outstanding revenue bonds that may be  
11 secured by a pledge of such municipal gross receipts tax  
12 unless [~~such~~] the outstanding revenue bonds have been  
13 discharged in full or provision has been fully made therefor.

14 D. As used in this section, the term "public  
15 building" includes but is not limited to fire stations, police  
16 buildings, jails, libraries, museums, auditoriums, convention  
17 halls, hospitals, buildings for administrative offices, city  
18 halls and garages for housing, repairing and maintaining city  
19 vehicles and equipment. As used in Chapter 3, Article 31 NMSA  
20 1978, the term "gross receipts tax revenue bonds" means the  
21 bonds authorized in Subsection C of this section, and the term  
22 "gross receipts tax revenue" means the amount of money  
23 distributed to the municipality as authorized by Section  
24 7-1-6.4 NMSA 1978 or the amount of money transferred to the  
25 municipality as authorized by Section 7-1-6.12 NMSA 1978 for

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1 any municipal gross receipts tax imposed pursuant to [ ~~Section~~  
2 ~~7-19-4~~] Sections 7-19D-9 and 7-19D-11 NMSA 1978. As used in  
3 Chapter 3, Article 31 NMSA 1978, the term "bond" means any  
4 obligation of a municipality issued under Chapter 3, Article  
5 31 NMSA 1978, whether designated as a bond, note, loan,  
6 warrant, debenture, lease-purchase agreement or other  
7 instrument evidencing an obligation of a municipality to make  
8 payments.

9 E. Gasoline tax revenue bonds may be issued for  
10 laying off, opening, constructing, reconstructing,  
11 resurfacing, maintaining, acquiring rights of way, repairing  
12 and otherwise improving municipal buildings, alleys, streets,  
13 public roads and bridges or any combination of the foregoing  
14 purposes. The municipality may pledge irrevocably any or all  
15 of the gasoline tax revenue received by the municipality to  
16 the payment of the interest on and principal of the gasoline  
17 tax revenue bonds. As used in Chapter 3, Article 31 NMSA  
18 1978, "gasoline tax revenue bonds" means the bonds authorized  
19 in this subsection, and "gasoline tax revenue" means all or  
20 portions of the amounts of tax revenues distributed to  
21 municipalities pursuant to Sections 7-1-6.9 [ ~~7-1-6.14~~] and  
22 7-1-6.27 NMSA 1978, as from time to time amended and  
23 supplemented.

24 F. Project revenue bonds may be issued for  
25 acquiring, extending, enlarging, bettering, repairing,

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1 improving, constructing, purchasing, furnishing, equipping and  
2 rehabilitating any revenue producing project, including, where  
3 applicable, purchasing, otherwise acquiring or improving the  
4 ground therefor, including but not necessarily limited to  
5 acquiring and improving parking lots, or for any combination  
6 of the foregoing purposes. The municipality may pledge  
7 irrevocably any or all of the net revenues from the operation  
8 of the revenue producing project for which the particular  
9 project revenue bonds are issued to the payment of the  
10 interest on and principal of [~~such~~] the project revenue bonds.  
11 The net revenues of any revenue producing project may not be  
12 pledged to the project revenue bonds issued for any revenue  
13 producing project that clearly is unrelated in nature; but  
14 nothing in this subsection shall prevent the pledge to any of  
15 such project revenue bonds of any such revenues received from  
16 any existing, future or disconnected facilities and equipment  
17 that are related to and that may constitute a part of the  
18 particular revenue producing project. Any general  
19 determination by the governing body that any facilities or  
20 equipment is reasonably related to and shall constitute a part  
21 of a specified revenue producing project shall be conclusive  
22 if set forth in the proceedings authorizing such project  
23 revenue bonds. As used in Chapter 3, Article 31 NMSA 1978:  
24 (1) "project revenue bonds" means the bonds  
25 authorized in this subsection; and

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1 (2) "project revenues" means the net revenues  
2 of revenue producing projects that may be pledged to project  
3 revenue bonds pursuant to this subsection.

4 G. Fire district revenue bonds may be issued for  
5 acquiring, extending, enlarging, bettering, repairing,  
6 improving, constructing, purchasing, furnishing, equipping and  
7 rehabilitating any fire district project, including, where  
8 applicable, purchasing, otherwise acquiring or improving the  
9 ground therefor, or for any combination of the foregoing  
10 purposes. The municipality may pledge irrevocably any or all  
11 of the revenues received by the fire district from the fire  
12 protection fund as provided in Sections 59A-53-1 through  
13 59A-53-17 NMSA 1978 and any or all of the revenues provided  
14 for the operation of the fire district project for which the  
15 particular bonds are issued to the payment of the interest on  
16 and principal of such bonds. The revenues of any fire  
17 district project shall not be pledged to the bonds issued for  
18 any fire district project that clearly is unrelated in its  
19 purpose; but nothing in this section shall prevent the pledge  
20 to any such bonds of any such revenues received from any  
21 existing, future or disconnected facilities and equipment that  
22 are related to and that may constitute a part of the  
23 particular fire district project. Any general determination  
24 by the governing body of the municipality that any facilities  
25 or equipment are reasonably related to and shall constitute a

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1 part of a specified fire district project shall be conclusive  
2 if set forth in the proceedings authorizing such fire district  
3 bonds.

4 H. Law enforcement protection revenue bonds may be  
5 issued for the repair and purchase of law enforcement  
6 apparatus and equipment that meet nationally recognized  
7 standards. The municipality may pledge irrevocably any or all  
8 of the revenues received by the municipality from the law  
9 enforcement protection fund distributions pursuant to  
10 [~~Sections 29-13-1 through 29-13-9 NMSA 1978~~] the Law  
11 Enforcement Protection Fund Act to the payment of the interest  
12 on and principal of the law enforcement protection revenue  
13 bonds.

14 I. Municipal capital improvements gross receipts  
15 tax revenue bonds may be issued for any municipal capital  
16 improvement project authorized for gross receipts tax revenue  
17 bonds pursuant to Subsection C of this section, subject to the  
18 following provisions:

19 (1) the municipality shall pledge irrevocably  
20 all of the revenue received from the municipal capital  
21 improvements gross receipts tax and may pledge irrevocably any  
22 or all of the gross receipts tax revenue received by the  
23 municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978  
24 to the payment of the interest on and principal of the  
25 municipal capital improvements gross receipts tax revenue

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1 bonds for any of the purposes authorized in this subsection;

2 (2) municipal capital improvements gross  
3 receipts tax revenues in excess of the annual principal and  
4 interest due on bonds secured by a pledge of the tax may be  
5 accumulated in a debt service reserve account until an amount  
6 equal to the maximum amount permitted pursuant to the  
7 provisions of the United States treasury regulations is  
8 accumulated in the debt service reserve account. After the  
9 debt service reserve account requirements have been met, the  
10 excess revenue shall be accumulated in an extraordinary  
11 mandatory redemption fund and annually used to redeem the  
12 bonds prior to their stated maturity date;

13 (3) a law that imposes or authorizes the  
14 imposition of a municipal capital improvements gross receipts  
15 tax, or a law supplemental to or otherwise pertaining to the  
16 tax, shall not be repealed or amended or otherwise directly or  
17 indirectly modified in such a manner as to impair adversely  
18 any outstanding revenue bonds that may be secured by a pledge  
19 of the municipal capital improvements gross receipts tax  
20 unless the outstanding revenue bonds have been discharged in  
21 full or provision has been fully made for their discharge;

22 (4) the governing body of the municipality  
23 may appoint a commercial bank trust department to act as  
24 trustee of the proceeds of the tax and to administer the  
25 payment of principal of and interest on the bonds and to

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1 redeem the bonds from the excess revenues deposited in the  
2 extraordinary mandatory redemption fund; and

3 (5) as used in Chapter 3, Article 31 NMSA  
4 1978, "municipal capital improvements gross receipts tax  
5 revenue bonds" means the bonds authorized in this subsection,  
6 and "municipal capital improvements gross receipts tax  
7 revenue" means all of the revenue from the municipal capital  
8 improvements gross receipts tax transferred to the  
9 municipality pursuant to Section 7-1-6.12 NMSA 1978.

10 ~~[I-]~~ J. Except for the purpose of refunding  
11 previous revenue bond issues, no municipality may sell revenue  
12 bonds payable from pledged revenues after the expiration of  
13 two years from the date of the ordinance authorizing the  
14 issuance of the bonds or, for bonds to be issued and sold to  
15 the New Mexico finance authority as authorized in Subsection C  
16 of Section 3-31-4 NMSA 1978, after the expiration of two years  
17 from the date of the resolution authorizing the issuance of  
18 the bonds. However, any period of time during which a  
19 particular revenue bond issue is in litigation shall not be  
20 counted in determining the expiration date of that issue. "

21 Section 4. Section 4-62-1 NMSA 1978 (being Laws 1992,  
22 Chapter 95, Section 1, as amended) is amended to read:

23 "4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF  
24 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

25 A. In addition to any other law authorizing a

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1 county to issue revenue bonds, a county may issue revenue  
2 bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the  
3 purposes specified in this section. The term "pledged  
4 revenues", as used in Chapter 4, Article 62 NMSA 1978, means  
5 the revenues, net income or net revenues authorized to be  
6 pledged to the payment of particular revenue bonds as  
7 specifically provided in Subsections B through [ J] K of this  
8 section.

9 B. Gross receipts tax revenue bonds may be issued  
10 for [~~any~~] one or more of the following purposes:

11 (1) constructing, purchasing, furnishing,  
12 equipping, rehabilitating, making additions to or making  
13 improvements to one or more public buildings or purchasing or  
14 improving any ground relating thereto, including but not  
15 necessarily limited to acquiring and improving parking lots,  
16 or any combination of the foregoing;

17 (2) acquiring or improving county or public  
18 parking lots, structures or facilities or any combination of  
19 the foregoing;

20 (3) purchasing, acquiring or rehabilitating  
21 firefighting equipment or any combination of the foregoing;

22 (4) acquiring, extending, enlarging,  
23 bettering, repairing, otherwise improving or maintaining storm  
24 sewers and other drainage improvements, sanitary sewers,  
25 sewage treatment plants or water utilities, including but not

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1 limited to the acquisition of rights of way and water and  
2 water rights or any combination of the foregoing;

3 (5) reconstructing, resurfacing, maintaining,  
4 repairing or otherwise improving existing alleys, streets,  
5 roads or bridges or any combination of the foregoing or laying  
6 off, opening, constructing or otherwise acquiring new alleys,  
7 streets, roads or bridges or any combination of the foregoing;  
8 provided that any of the foregoing improvements may include  
9 the acquisition of rights of way;

10 (6) purchasing, acquiring, constructing,  
11 making additions to, enlarging, bettering, extending or  
12 equipping airport facilities or any combination of the  
13 foregoing, including without limitation the acquisition of  
14 land, easements or rights of way;

15 (7) purchasing or otherwise acquiring or  
16 clearing land or purchasing, otherwise acquiring and  
17 beautifying land for open space;

18 (8) acquiring, constructing, purchasing,  
19 equipping, furnishing, making additions to, renovating,  
20 rehabilitating, beautifying or otherwise improving public  
21 parks, public recreational buildings or other public  
22 recreational facilities or any combination of the foregoing;  
23 or

24 (9) acquiring, constructing, extending,  
25 enlarging, bettering, repairing or otherwise improving or

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1 maintaining solid waste disposal equipment, equipment for  
2 operation and maintenance of sanitary landfills, sanitary  
3 landfills, solid waste facilities or any combination of the  
4 foregoing.

5 A county may pledge irrevocably any or all of the revenue  
6 from the first one-eighth of one percent increment of the  
7 county gross receipts tax for payment of principal and  
8 interest due in connection with, and other expenses related  
9 to, gross receipts tax revenue bonds for any of the purposes  
10 authorized in this section or specific purposes or for any  
11 area of county government services. If the county gross  
12 receipts tax revenue from the first one-eighth of one percent  
13 increment of the county gross receipts tax is pledged for  
14 payment of principal and interest as authorized by this  
15 subsection, the pledge shall require the revenues received  
16 from that increment of the county gross receipts tax to be  
17 deposited into a special bond fund for payment of the  
18 principal, interest and expenses. At the end of each fiscal  
19 year, any money remaining in the special bond fund after the  
20 annual obligations for the bonds are fully met may be  
21 transferred to any other fund of the county.

22 C. Fire protection revenue bonds may be issued for  
23 acquiring, extending, enlarging, bettering, repairing,  
24 improving, constructing, purchasing, furnishing, equipping or  
25 rehabilitating any independent fire district project or

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1 facilities, including, where applicable, purchasing, otherwise  
2 acquiring or improving the ground for the project or any  
3 combination of such purposes. A county may pledge irrevocably  
4 any or all of the county fire protection excise tax revenue  
5 for payment of principal and interest due in connection with,  
6 and other expenses related to, fire protection revenue bonds.  
7 These bonds may be referred to in Chapter 4, Article 62 NMSA  
8 1978 as "fire protection revenue bonds".

9 D. Environmental revenue bonds may be issued for  
10 the acquisition and construction of solid waste facilities,  
11 water facilities, wastewater facilities, sewer systems and  
12 related facilities. A county may pledge irrevocably any or  
13 all of the county environmental services gross receipts tax  
14 revenue for payment of principal and interest due in  
15 connection with, and other expenses related to, environmental  
16 revenue bonds. These bonds may be referred to in Chapter 4,  
17 Article 62 NMSA 1978 as "environmental revenue bonds".

18 E. Gasoline tax revenue bonds may be issued for the  
19 acquisition of rights of way for and the construction,  
20 reconstruction, resurfacing, maintenance, repair or other  
21 improvement of county roads and bridges. A county may pledge  
22 irrevocably any or all of the county gasoline tax revenue for  
23 payment of principal and interest due in connection with, and  
24 other expenses related to, county gasoline tax revenue bonds.  
25 These bonds may be referred to in Chapter 4, Article 62 NMSA

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1 1978 as "gasoline tax revenue bonds".

2 F. Utility revenue bonds or joint utility revenue  
3 bonds may be issued for acquiring, extending, enlarging,  
4 bettering, repairing or otherwise improving water facilities,  
5 sewer facilities, gas facilities or electric facilities or for  
6 any combination of the foregoing purposes. A county may  
7 pledge irrevocably any or all of the net revenues from the  
8 operation of the utility or joint utility for which the  
9 particular utility or joint utility bonds are issued to the  
10 payment of principal and interest due in connection with, and  
11 other expenses related to, utility or joint utility revenue  
12 bonds. These bonds may be referred to in Chapter 4, Article  
13 62 NMSA 1978 as "utility revenue bonds" or "joint utility  
14 revenue bonds".

15 G. Project revenue bonds may be issued for  
16 acquiring, extending, enlarging, bettering, repairing,  
17 improving, constructing, purchasing, furnishing, equipping or  
18 rehabilitating any revenue-producing project, including, as  
19 applicable, purchasing, otherwise acquiring or improving the  
20 ground therefor and including but not limited to acquiring and  
21 improving parking lots, or may be issued for any combination  
22 of the foregoing purposes. The county may pledge irrevocably  
23 any or all of the net revenues from the operation of the  
24 revenue-producing project for which the particular project  
25 revenue bonds are issued to the payment of the interest on and

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1 principal of the project revenue bonds. The net revenues of  
2 any revenue-producing project may not be pledged to the  
3 project revenue bonds issued for any other revenue-producing  
4 project that is clearly unrelated in nature; but nothing in  
5 this subsection prevents the pledge to any of the project  
6 revenue bonds of any revenues received from any existing,  
7 future or disconnected facilities and equipment that are  
8 related to and that may constitute a part of the particular  
9 revenue-producing project. A general determination by the  
10 governing body that facilities or equipment are reasonably  
11 related to and constitute a part of a specified revenue-  
12 producing project shall be conclusive if set forth in the  
13 proceedings authorizing the project revenue bonds. As used in  
14 Chapter 4, Article 62 NMSA 1978:

15 (1) "project revenue bonds" means the bonds  
16 authorized in this subsection; and

17 (2) "project revenues" means the net revenues  
18 of revenue-producing projects that may be pledged to project  
19 revenue bonds pursuant to this subsection.

20 H. Fire district revenue bonds may be issued for  
21 acquiring, extending, enlarging, bettering, repairing,  
22 improving, constructing, purchasing, furnishing, equipping and  
23 rehabilitating any fire district project, including, where  
24 applicable, purchasing, otherwise acquiring or improving the  
25 ground therefor, or for any combination of the foregoing

Underscored material = new  
[bracketed material] = delete

1 purposes. The county may pledge irrevocably any or all of the  
2 revenues received by the fire district from the fire  
3 protection fund as provided in Sections 59A-53-1 through  
4 59A-53-17 NMSA 1978 and any or all of the revenues provided  
5 for the operation of the fire district project for which the  
6 particular bonds are issued to the payment of the interest on  
7 and principal of such bonds. The revenues of a fire district  
8 project shall not be pledged to the bonds issued for a fire  
9 district project that clearly is unrelated in its purpose; but  
10 nothing in this section shall prevent the pledge to any of  
11 such bonds of any such revenues received from any existing,  
12 future or [øf] disconnected facilities and equipment that are  
13 related to and that may constitute a part of the particular  
14 fire district project. A general determination by the  
15 governing body of the county that facilities or equipment are  
16 reasonably related to and constitute a part of a specified  
17 fire district project shall be conclusive if set forth in the  
18 proceedings authorizing the fire district bonds.

19 I. Law enforcement protection revenue bonds may be  
20 issued for the repair and purchase of law enforcement  
21 apparatus and equipment that meet nationally recognized  
22 standards. The county may pledge irrevocably any or all of  
23 the revenues received by the county from the law enforcement  
24 protection fund distributions pursuant to [ Sections 29-13-1  
25 through 29-13-9 NMSA 1978 ] the Law Enforcement Protection Fund

Underscored material = new  
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1 Act to the payment of the interest on and principal of the law  
2 enforcement protection revenue bonds.

3 J. Hospital emergency gross receipts tax revenue  
4 bonds may be issued for acquisition, equipping, remodeling or  
5 improvement of a county hospital facility. A county may  
6 pledge irrevocably, to the payment of the interest on and  
7 principal of the hospital emergency gross receipts tax revenue  
8 bonds, any or all of the revenues received by the county from  
9 a county hospital emergency gross receipts tax imposed  
10 pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to  
11 payment of bonds or a loan for acquisition, equipping,  
12 remodeling or improvement of a county hospital facility.

13 K. County capital improvements gross receipts tax  
14 revenue bonds may be issued for any county capital improvement  
15 project authorized for gross receipts tax revenue bonds  
16 pursuant to Subsection B of this section. The county shall  
17 pledge irrevocably all of the revenue received from the county  
18 capital improvements gross receipts tax and may pledge  
19 irrevocably any or all of the revenue from the first one-  
20 eighth of one percent increment of the county gross receipts  
21 tax to the payment of the interest on and principal of the  
22 county capital improvements gross receipts tax revenue bonds  
23 for any of the purposes authorized in this subsection. County  
24 capital improvements gross receipts tax revenues in excess of  
25 the annual principal and interest due on bonds secured by a

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Underscored material = new  
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1 pledge of the tax may be accumulated in a debt service reserve  
2 account until an amount equal to the maximum amount permitted  
3 pursuant to the provisions of the United States treasury  
4 regulations is accumulated in the debt service reserve  
5 account. After the debt service reserve account requirements  
6 have been met, the excess revenue shall be accumulated in an  
7 extraordinary mandatory redemption fund and annually used to  
8 redeem the bonds prior to their stated maturity date. The  
9 governing body of the county may appoint a commercial bank  
10 trust department to act as trustee of the proceeds of the tax  
11 and to administer the payment of principal of and interest on  
12 the bonds and redeem the bonds from the excess revenues  
13 deposited in the extraordinary mandatory redemption fund.

14 [K.] L. Except for the purpose of refunding  
15 previous revenue bond issues, no county may sell revenue bonds  
16 payable from pledged revenue after the expiration of two years  
17 from the date of the ordinance authorizing the issuance of the  
18 bonds or, for bonds to be issued and sold to the New Mexico  
19 finance authority as authorized in Subsection C of Section  
20 4-62-4 NMSA 1978, after the expiration of two years from the  
21 date of the resolution authorizing the issuance of the bonds.  
22 However, any period of time during which a particular revenue  
23 bond issue is in litigation shall not be counted in  
24 determining the expiration date of that issue.

25 [L.] M. No bonds may be issued by a county, other

Underscored material = new  
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1 than an H class county, a class B county as defined in Section  
2 4-36-8 NMSA 1978 or a class A county as described in Section  
3 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,  
4 repair or construct any utility unless the utility is  
5 regulated by the New Mexico public utility commission pursuant  
6 to the Public Utility Act and the issuance of the bonds is  
7 approved by the commission. For purposes of Chapter 4,  
8 Article 62 NMSA 1978, a "utility" includes but is not limited  
9 to any water, wastewater, sewer, gas or electric utility or  
10 joint utility serving the public. H class counties shall  
11 obtain New Mexico public utility commission approvals required  
12 by Section 3-23-3 NMSA 1978.

13 [M-] N. Any law that imposes or authorizes the  
14 imposition of a county gross receipts tax, a county capital  
15 improvements gross receipts tax, a county environmental  
16 services gross receipts tax, a county fire protection excise  
17 tax, the gasoline tax or the county hospital emergency gross  
18 receipts tax, or that affects any of those taxes, shall not be  
19 repealed or amended in such a manner as to impair any  
20 outstanding revenue bonds that are issued pursuant to Chapter  
21 4, Article 62 NMSA 1978 and that may be secured by a pledge of  
22 those taxes unless the outstanding revenue bonds have been  
23 discharged in full or provision has been fully made therefor.

24 [N-] 0. As used in this section:

25 (1) "county capital improvements gross

Underscored material = new  
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1 receipts tax revenue" means the revenue from the county  
2 capital improvements gross receipts tax transferred to the  
3 county pursuant to Section 7-1-6.13 NMSA 1978;

4 [~~(1)~~] (2) "county environmental services  
5 gross receipts tax revenue" means the revenue from the county  
6 environmental services gross receipts tax transferred to the  
7 county pursuant to Section 7-1-6.13 NMSA 1978;

8 [~~(2)~~] (3) "county fire protection excise tax  
9 revenue" means the revenue from the county fire protection  
10 excise tax transferred to the county pursuant to Section  
11 7-1-6.13 NMSA 1978;

12 [~~(3)~~] (4) "county gross receipts tax revenue"  
13 means the revenue attributable to the first one-eighth of one  
14 percent increment of the county gross receipts tax transferred  
15 to the county pursuant to Section 7-1-6.13 NMSA 1978 and any  
16 distribution related to the first one-eighth of one percent  
17 made pursuant to Section 7-1-6.16 NMSA 1978;

18 [~~(4)~~] (5) "gasoline tax revenue" means the  
19 revenue from that portion of the gasoline tax distributed to  
20 the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA  
21 1978; and

22 [~~(5)~~] (6) "public building" includes but is  
23 not limited to fire stations, police buildings, jails,  
24 libraries, museums, auditoriums, convention halls, hospitals,  
25 buildings for administrative offices, courthouses and garages

Underscored material = new  
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1 for housing, repairing and maintaining county vehicles and  
2 equipment.

3 [0-] P. As used in Chapter 4, Article 62 NMSA 1978,  
4 the term "bond" means any obligation of a county issued under  
5 Chapter 4, Article 62 NMSA 1978, whether designated as a bond,  
6 note, loan, warrant, debenture, lease-purchase agreement or  
7 other instrument evidencing an obligation of a county to make  
8 payments. "

1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
3  
4  
5

6 February 5, 1998  
7

8 Mr. President:  
9

10 Your COMMITTEES' COMMITTEE, to whom has been referred  
11

12 SENATE BILL 352  
13

14 has had it under consideration and finds same to be GERMANE, in  
15 accordance with constitutional provisions, and thence referred to the  
16 WAYS & MEANS COMMITTEE.  
17

18  
19 Respectfully submitted,  
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25 \_\_\_\_\_  
Manny M. Aragon, Chairman

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~~[bracketed material]~~ = delete

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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